

MEMORANDUM OF LAW

DATE: June 29, 1994

TO: Councilmember Harry Mathis

FROM: City Attorney

SUBJECT: Requested Information Regarding Carmel Valley FBA

In response to the questions posed at the Transportation and Land Use Committee meeting on June 1, and as posed in your attached memorandum dated June 23, 1994, please see the attached memorandum prepared by a legal intern in this office.

I agree with the conclusions reached by the legal intern. Basically, FBA funds by their nature are special assessments and can only be utilized for permanent public improvements and incidental expenses related thereto.

If the proposed community planning committee consultant were to limit his or her activities to reviewing and commenting on the permanent public improvements to be financed with FBAs, it is possible that such activities could be financed with a part of the FBA receipts. However, the expenditure of FBA funds, even under such a fact circumstance, would be questionable, since the consultant would not be a consultant to the City but only a consultant to an adviser to the City.

My understanding is, however, that the proposed consultant would be attending meetings and providing recommendations with regard to the total variety of issues normally addressed by community planning groups. Therefore, it is not legally allowable to use FBA funds to pay such a consultant, with or without amendments to the City's ordinance.

JOHN W. WITT, City Attorney

By

Harold O. Valderhaug

Chief Deputy City Attorney

HOV:ps:623.6

Attachments 2

ML-94-56